REMARKS

This paper is responsive to a *non-final* Office action dated May 28, 2008. Claims 1-33 and 36-38 were examined and rejected. All rejections are traversed.

Preliminaries

Applicant appreciates the withdrawal of each of the rejections made in the prior Official action. With respect to the new grounds of rejection, Applicant notes that Examiner has employed a certain methodology/phraseology in styling her rejections. It is essentially as follows:

(1) quote Applicant's claim;
(2) make citation to some passage of the applied reference; and
(3) state "examiner notes ..." something, where the something is typically Examiner's interpretation or extrapolation regarding the teaching of the reference.

Applicant does not wish (or intend) to quibble with the matters of style, but does find it necessary to respectfully clarify the record for avoidance of doubt as to the legal/procedural import of Examiner's phraseology. Indeed, (i) since the Examiner "notes" interpretations or extrapolations no fewer than 72 times in the present rejection, (ii) since some of those interpretations/extrapolations are often strained, but in any case are *not* facts that are well-known or common knowledge in the art without documentary evidence, and (iii) since it is not at all clear to Applicant whether similarity between the Examiner's chosen verb "notes" and the term of art "Official Notice" is merely accidental or rather purposeful, Applicant must take this opportunity to "note" that the Examiner's "notes" do not comport with Official Notice practice under MPEP 2144.03. ***Accordingly, the Examiner's numerous interpretations of the applied references should not, cannot, and are not to be viewed as Official Notice of any facts that are well-known or of common knowledge in the art.***

Applicant now turns to the substance of the rejections.

Claim Rejections – 35 USC 102

Claims 1-4, 8-22, 24-33, and 36-38 stand rejected under 35 U.S.C. § 102(b) as being anticipated by PCT International Publication WO 99/05814 naming Dickinson et al. as inventors (hereinafter "*Dickinson*"). Applicant respectfully traverses.

Dickinson discloses use of a policy engine in connection with an SMTP relay for (amongst other things) restricting transmission of messages and/or in some cases encrypting and/or decrypting message traffic. *Dickinson* does not disclose or suggest, taken alone or in combination, a package delivery technique wherein a sender-policy-based determination is made regarding permissibility of delivery to a recipient and …

> upon a condition in which the policy permits delivery of the package, delivering the package by:
> sending notification to the recipients wherein the **notification includes package identification data;** and **responsive to receipt of the package identification data from a selected one of the recipients, providing the selected recipient with access to the package.**

See Applicant's Claim 1 (emphasis added). The Office simply misses the point by relying on usage (in *Dickinson*) of a "notification message" that may optionally be accompanied by the original message that triggered a policy-based notification. Claim 1 recites a medium that includes instructions configured to cause a computer to (amongst other things) (i) send notification (including package identification data) to recipients and (ii) provide a particular recipient with access to the package in response to receipt of that package identification data from that particular recipient. Independent claim 1 and each of the claims dependent therefrom (i.e., claims 2-26 and 36) are all allowable for at least the foregoing reason(s).

Turning now to independent claim 27, the Office articulates a seemingly identical rationale for rejection. As before, the Office apparently views mere disclosure (in *Dickinson*) of policy-based decisioning and an ability to direct a notification message "to sender, recipient, administrator or any e-mail address defined by [an] administrator" (*see Dickinson*, p. 14, lines 2-4) as anticipatory. With respect, such analysis again misses the point. It is clear from *Dickinson's* disclosure (see *Dickinson*, p. 14, lines 4-7), that notification messages are used to inform a sender, recipient or administrator of message disposition (e.g., deferral, quarantine,

return to sender, or drop) and do not have anything at all to do with a mechanism by which a recipient may receive package identification data useful for retrieving a package from a server. In this regard, the specific language of claim 27:

> ...
>
> the instructions further executable to determine whether the [(sender-enterprise associated)] policy permits delivery of the package to a particular one of the recipients, and upon determination of a condition in which the policy permits delivery of the package, executable to initiate notification of the particular recipient, **wherein the notification includes package identification data usable by the particular recipient to retrieve the package from at least one of the servers**[,]

is instructive. Because neither the applied reference, *Dickinson*, nor any of the other art of record, disclose or suggest, taken alone or in combination, a computer program product encoded in media and comprising instructions executable to determine whether a sender-enterprise associated policy permits delivery of a package to a recipient, and upon determination of a condition in which the policy permits delivery of the package, executable to initiate notification of the recipient, wherein the notification includes package identification data usable by the recipient to retrieve the package, independent claim 27 and each of the claims dependent therefrom (i.e., claims 28-29 and 37) are all allowable.

Finally, independent claim 30, is rejected based on reasoning analogous to that applied to claims 1 *et seq.* and 27 *et seq.* Although claim 30 is directed to a secure package delivery system and is of different scope than claims 1 and 27 (discussed above), claim 30 is allowable for at least analogous reasons. In particular, claim 30 recites a hosted service interposed between sender and recipients to apply a policy associated with the sender's enterprise and operable to determine whether the sender-enterprise associated policy permits delivery of a package to a particular recipient. Upon determination of a condition in which the policy permits delivery of the package, the system initiates notification of the recipient and includes:

a delivery manager operable to transmit to the particular recipient a **notification message that includes package identification data usable by the particular recipient to retrieve the package from the service.**

See Applicant's claim 30 (emphasis added).

As before, the Office's reliance on mere disclosure (in the applied reference, *Dickinson*) of policy-based decisioning and an ability to direct a notification message is simply misplaced. Neither *Dickinson*, nor any of the other art of record, disclose or suggest, taken alone or in combination, a secure package delivery that includes a delivery manager as recited in claim 30. Accordingly, independent claim 30 and each of the claims dependent therefrom (i.e., claims 31-33 and 38) are all allowable and a notice to that effect is respectfully requested.

Claim Rejections – 35 USC 103, Schutzman, Kuzma

Dependent claims 5, 6, 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dickinson* in view of US 5,627,764 to Schutzman et al. (hereinafter "*Schutzman*"). Dependent claim 23 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over *Dickinson* in view of US 5,771,355 to Kuzma (hereinafter "*Kuzma*").

Claims 5, 6, 7 and 23 are all allowable for at least the reasons given above with respect to the claims from which they respectively depend (including claim 1). Neither *Schutzman* nor *Kuzma* provides the disclosure missing from *Dickinson*. Accordingly, no *prima facie* case has been made with respect to claims 5, 6, 7 and 23, and the obviousness rejection should be withdrawn.

Conclusion

In summary, claims 1-33 and 36-38 are in the case. All claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

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David W. O'Brien — 29 Sep 08 (Date)

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